

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Pensions Suits – High Court – W.P.M.P.No. 26258/2004 in W.P.No.20040/2004 filed by Smt Sakeena Begum, W/o Late Mohd.Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State sanction of Pension and Family Pension Orders – Issued.

FINANCE (PENSION.II) DEPARTMENT

G.O.Ms.No. 469

Dated: 3.12.2008.

Read the following:

1. Judgment of A.P.H.C. dt. 7.7.2003 in W.P.No.8505 of 1992 filed by Mohd Haneef Ex.Peon, Thasil Office, Manvi, Raichur District, Karnataka State
2. Judgment of A.P.H.C. in W.P.No.10426/90 dt. 21.8.1990 filed by Smt Hussain Bee w/o Late.Tajuddin (Precedent case).
3. Judgment dt. 6.9.2008 of A.P.H.C. in W.P.No.20040 of 2004 filed by Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State, received in Finance on 21.10.2008.
4. Representation submitted by Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State along with Pension papers dated 27.7.2003.and dated 30.9.2008.
5. Letter No.22352/313/A1/Pen-II/2003,Dated 17.7.2008 addressed to Thasil Office, Manvi, Raichur District, Karnataka State.
6. From Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon, Show-Cause Notice. dated 7-10-2008 received in Finance Department on 16-10-2008.
7. Memo.No.20143/169/A1/Pen-II/2008,dated: 25.10.2008 addressed to Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State,
8. Memo.No.20143/169/A1/Pen-II/2008,dated:25.10.2008,The Director, A.P.State Audit, Hyderabad.
9. Report of Director of State Audit dated: 11.2008.

@@@

ORDER:

Sri Mohd Haneef, former Peon of the Tahsil Office, Manvi Raichur District, Karnataka State which formed part of the erstwhile Hyderabad state filed W.P.No. 8505/1992 duly quoting a precedent Family Pension case of Smt. Hussain Bee w/o Late.Tajuddin of his village who served only for 13 years and prayed for sanction of pension duly quoting G.O.Ms.No.12 dated 2-1-1991. The Hon'ble High Court allowed his request for sanction of pension.

2. The brief facts of the case are that Sri.Mohd Haneef was born on 1-1-1909 and entered into Government Service on 1-1-1930 as Peon in Thasil Office, Manvi, Raichur District; Karnataka State (erstwhile Hyderabad State) and served for 17 years and retired in the year 1947. As he has rendered only 17 years of service and not completed 25 years of service as required in the then Hyderabad Civil Service Rules and therefore he was not sanctioned any pension either by the Karnataka State or Andhra Pradesh State. After being silent for a long time he filed W.PNo.8505/1992 duly quoting a precedent Family Pension case of Smt. Hussain Bee w/o Late.Tajuddin of his village who served only for 13 years and prayed for sanction of pension duly quoting G.O.Ms.No.12 dated 2-1-1991. The Hon'ble High Court in their order dated 7-7-2003 in W.P.No.8505/1992 directed as follows:

“The Learned standing counsel for the respondents 1&2 submits that the said case was not identical to the case of the petitioner as in the said case the wife of the deceased employee filed the writ petition, but whereas in the instant case, the petitioner himself, who worked and retired filed this writ petition. In the said case a family pension was granted, but not the pension. Therefore, there is no similarity or relevance.

When a family of the deceased employee is entitled for family pension, it is rather curious to the state that the petitioner, who served, is not entitled to the pension. Therefore, I do not accept the contention of the learned standing counsel appearing for the respondents 1 & 2.

In view of the aforesaid reasons, I do not see any reason on the part of the respondents in not granting the pension to the petitioner, which is a meager amount. The petitioner is more than 77 years old and having regard to the aforesaid facts and circumstances of the case, the respondents are directed to fix the pension including the arrears payable to the petitioner and pay the same within four months from the date of receipt of a copy of this order”.

3. Meanwhile the petitioner Sri.Mohd.Haneef expired on 16-8-2003 and his wife represented for sanction of Family Pension duly furnishing Family Pension papers and producing the death certificate of her husband and also represented A.P. High Court and the A.P. High Court has considered it as taken up W.P. A clarification was sought from the Advocate General in the Govt. letter dated 3-8-2004 A reply has been received from the Advocate General and he has requested to furnish G.O.Ms.No.12 dated 2-12-1991 and the other records and rules governing the case and stated that in the absence of relevant material, it is not possible to give his opinion on the issue. However a detail counter has been filed by the Government. At this juncture the G.P. A.P. High Court in his letter dated 24-6-2008 has informed that, after hearing the both arguments, the Hon’ble Court in W.P.M.P.No.26258/04 in W.P.20040/04 directed the Respondents to process the pension papers of the said petitioner’s (Late) Husband within 3 weeks from the date of order. Therefore the G.P has requested Government to take immediate steps for complying the court directions on or before 14-7-2008. Accordingly the case was examined and the Thasil Office Manvi, Raichur District, Karnataka State has been addressed in Govt. letter dated 17-7-2008 with a request to scrutinize the papers submitted by the Smt.Sakeena Begum and forward the same to Finance Department AP. to implement the orders of High Court.. Smt.Sakeena Begum has directly furnished Family Pension papers with insufficient information. A copy of the same was forwarded to the Thasil Office, Manvi, Raichur District, Karnataka State, with a reminder to furnish scrutinized Family Pension papers. The Petitioner has also given a Show-Cause Notice to the Government under section 80 of CPC giving 8 days time to fulfill High Court orders. As the official copy of the judgment in W.P.No.20040/04 has not been received, a copy of the judgment W.P.No.20040/04 dated 6-9-2008 has been obtained from the office of the Government Pleader A.P.High Court Hyderabad. The operative portion of the judgment is as follows:

“Having regard to the facts and circumstances of the case and taking into consideration the letter dated 17-7-2008 placed before this Court by the learned Government Pleader, this Court is of the opinion that as the factual position, with regard to the entitlement of the husband of the petitioner for pension, has already been profoundly discussed by this Court in the W.P.No.8505 of 1992, filed by the husband of the petitioner herein, following the order dated 7-7-2003 made in W.P.No.8505 of 1992, the respondents are directed to fix the pension including arrears payable to the husband of the petitioner herein, taking into consideration the order dated 7-7-2003, and release the family pension, within a period of four months from the date of receipt of a copy of this order, accordingly this writ petition is allowed ”.

4. As the official record and the scrutinized pension papers have not been received from Thasil Office, Manvi, Raichur District, Karnataka State, copies of the all judgments and the pension papers received from Smt.Sakeena Begum,

w/o Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State, have been forwarded to Director of State Audit, A.P. Hyderabad with a direction to scrutinize the pension papers if necessary by getting required information from the Thasil Office, Manvi, Raichur District Karnataka State. He has furnished a report vide 7th read above wherein he has stated that the Tahsildar, Manvi has informed that the Service Register and acquaintance rolls for the period from 1-1-1931 to 1947 are not traceable in his Office inspite of exhaustive efforts and hence not in a position to build up pension papers in respect of Sri. Mohd. Haneef, Ex-Peon of his Office who is stated to have worked between 1930 to 1947. The only records traced out were few Attendance Register sheets pertaining to Fasli 1/ 1355 (October 1945), Fasli 10-1357 (July 1948), Fasli 11/ 1357 (August 1948) and Fasli 12-1357 (September 1948) in which his name is appearing as peon, having worked as an Umeedwar. Thus they are not in a position to submit the pension and family pension proposals in respect of Sri. Mohd. Haneef, Ex-Peon. As seen from the zerox copy of the application of Sri. Mohd. Haneef, he has applied for appointment as Umeedwar on 22-9 Fasli 1354 i.e. 27-6-1945. It is further reported that the Tahsildar, Manvi has not submitted the Family Pension proposal (4 sets) duly certified, Service Book, L.P.C. and No due certificate as instructed by Government. Hence he has stated that in the absence of any records including Service Register, Acquittance rolls, Pay Bill Register, Attendance Register etc., and since the pension papers have not been forwarded duly certified by the Tahsildar, Manvi, his office is not in a position to verify the pension papers submitted by Smt. Sakeena Begum, W/o Late Sri Mohd. Haneef, Ex-Peon, Tahsil Office, Manvi and work out the eligible pension family pension in this case. Hence he has requested the Government to issue appropriate sanction orders even in the absence of certified pension papers or any other records, as a special case, on humanitarian grounds after which necessary authorization will be issued by his Department.

5. In spite of detailed counter filed by the Government, the Hon'ble High Court directed the Government to sanction service pension to Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State and family pension to Smt. Sakeena Begum, w/o Late Haneef. In view of the directions of the Hon'ble High Court it has become obligatory on the part of the Government to sanction Service Pension and family pension though there is no sufficient record and though they are not eligible as per rules.

6. Para 13 of Chapter II of Manual of Pensions states that all ex Hyderabad state employees whether belonging to superior or inferior service who retired before 1.6.1951 are Governed by Hyderabad Civil Services Rules. Article 299 (2) of Hyderabad Civil Services Rules reads as follows:

The pension and gratuity for inferior service is regulated as follows:

- (a) No pension or gratuity will be granted for a service of less than 5 years.
- (b) After a service of not less than 5 years but less than 10 years 5 times the amount of the last drawn salary will be granted as gratuity.
- (c) After a service of not less than 10 years, but less than 25 years, half the amount of the last drawn salary for each year of service will be given as gratuity.
- (d) After a service of 25 years or more, a pension equivalent to half the average salary will be granted.

Calculation of Service Pension in this case

As the service particulars and pay particulars are not available, the information furnished by the individuals in their affidavits filed in the court are taken as bases to calculate pension in this case. It is stated therein that Sri Mohd. Haneef, Ex Peon in Manvi has rendered 17 years of service and he was in this scale of Rs.12/-15/-. Therefore his service rendered may be taken at 17 years and pay for calculation of pension may be taken as Rs. 15/-P.M. As per the rule position under Rule 299(2) of Hyderabad Civil Service Rules, he is not entitled for service

pension since a service of 25 years is necessary for sanction of service pension. In view of the Court orders, his service pension is worked out as follows:

Formula = Length of service X Basic pay

60

= $\frac{17 \times 15}{60}$ = Rs.4.25 Ps. may be rounded to Rs.5/-

60

As per the above calculations, Late.Sri.Mohd.Haneef becomes eligible for payment of service pension at Rs.5/- with effect from 1.1.1948, since the exact date of retirement is not available in the pension papers submitted by his family but only stated that he entered into service on 1.1.1930 and rendered 17 years of service and retired on superannuation.

7. In the above circumstances and in compliance with the orders of Andhra Pradesh High Court in the reference 1st and 3rd read above, Government after careful examination of the matter, hereby accord sanction for the following:

1. Service Pension to Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State at an amount of Rs.5/- per month with effect from 1.1.1948 (next date after the date of retirement).
2. Family Pension to Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon, Thasil Office, Manvi, Raichur District, Karnataka State, at an amount of Rs.1925/- with effect from 17.8.2003 (from the next day of the death of her husband), the minimum pension existing as on that date.

8. The Director of State Audit Hyderabad shall scrutinize the pension papers and shall workout the arrears of service pension for the period from 1.1.1948 to 16.8.2003 duly taking into account the revisions took place from time to time and authorize the Service pension and Family pension including arrears.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. SAMEER SHARMA,
SECRETARY TO GOVERNMENT (FP)

To
The Director of State Audit, Hyderabad.

Copy to:

Smt.Sakeena Begum, w/o Late Haneef, Ex. Peon,
Thasil Office, Manvi, Raichur District, Karnataka State.
through the Tahsildar, Manvi, Raichur District, Karnataka State.
The Tahsildar, Manvi, Raichur District, Karnataka State
The Registrar, A.P.High Court, Hyderabad.
The Government Pleader, A.P.High Court, Hyderabad.
Sf/Scs.

// Forwarded by Order //

Section Officer